

APPEAL NO. 022418
FILED NOVEMBER 6, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 5, 2002. With respect to the issues before him, the hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable injury on _____; that the compensable injury includes the lumbar spine but does not include the cervical spine; and that the claimant had disability from February 16 to May 8, 2002. In its appeal, the appellant/cross-respondent (self-insured) argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. In her cross-appeal, the claimant contends that the hearing officer's determinations that her compensable injury does not include the cervical spine and that her disability ended on May 8, 2002, are against the great weight of the evidence. In their respective responses to the other party's appeal, the parties urge affirmance.

DECISION

Affirmed.

Initially, we note that the appeal file contains a letter from the claimant's treating doctor, Dr. S, to the hearing officer. This letter is dated October 23, 2002, and it is not entirely clear how the letter made its way to the Appeals Panel. The letter was not attached to the appeal submitted by the claimant's attorney, and there is no indication that the claimant is aware of or authorized Dr. S to send this letter. In addition, there is no indication that Dr. S served this letter on the carrier. Finally, we note that Dr. S did not sign the letter "on behalf of the claimant," that Dr. S was not a party at the hearing, and that there is no evidence, nor any allegation, that Dr. S is a subclaimant pursuant to Section 409.009. As such, we will not consider the letter from Dr. S on appeal.

The hearing officer did not err in determining that the claimant sustained a compensable injury; that the compensable injury does not include the cervical spine; and that she had disability from February 16 to May 8, 2002. There was conflicting evidence on the issues and each issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the conflicts and inconsistencies in the evidence and determined that while the claimant sustained her burden of proving that she sustained a compensable lumbar injury and that she had disability for the period found, she did not sustain her burden of proving that her compensable injury included the cervical spine or that she had disability from May 8, 2002, through the date of the hearing. Nothing in our review of the record reveals that the challenged determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge